REMARKS

Claims 14–17 are hereby withdrawn from further consideration.

Claims 18–20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Myers et al. (U.S. Patent No. 6,006,504) in view of McClure et al. (U.S. Patent No. 6,550,218). This rejection is respectfully traversed.

The Office Action alleges: "One of ordinary skill in the art would recognize that the simplest way to combine the drum roller of McClure with the Myers round baler would be to move the belt roller structure rearward – without changing the wrapping arrangement, in which the net wrap is fed over the belt roller." Note that a rejection based on §103 must rest on a factual basis, with the facts being interpreted without a hindsight reconstruction of the invention from the prior art. Thus, in the context of an analysis under §103, it is **not sufficient merely to identify one reference that teaches several of the limitations of a claim and another that teaches several limitations of a claim to support a rejection based on obviousness.** ***This is because obviousness is not established by combining the basic disclosures of the prior art to produce the claimed invention absent a teaching or suggestion that the combination be made.*** [See, for instance, Interconnect Planning Corp. v. Fiel, 774 F.2d 1132, 1143,227 U.S.P.Q. (BNA) 543, 551 (Fed. Cir. 1985); In re Corkhill, 771 F.2d 1496, 1501-02, 226 U.S.P.Q. (BNA) 1005, 1009-10 (Fed. Cir. 1985).] Neither the Myers et al. nor the McClure et al. disclosures teach or suggest a motivation to dispose the netwrap material between the drum roller and the belt roller as claimed in claim 18.

According to a statement by the Court of Appeals for the Federal Circuit: "[w]hen a rejection depends upon a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references." [Ecolochem. Inc. v. Southern Calif Edison, 56 U.S.P.Q. 2d 1065, 1073 (Fed. Cir. 2000).] Here, there is simply no motivation provided in either the Myers et al. nor the McClure et al. disclosures to dispose the netwrap material between the drum roller and the belt roller.

No reason for obviousness was provided in the Office Action for claims 19 and 20. However, as fully explained below, there were elements of these claims not disclosed by either Myers et al. or McClure et al.

With respect to claim 19, neither Myers et al. nor McClure et al. disclosed "at least one netwrap material guide disposed between the netwrap roll and the belt roller, said netwrap material guide providing support for the netwrap material from below." Hence, it would not have been obvious to one of ordinary skill in the art to have modified the invention of Myers et al. with the disclosure of McClure et al. to obtain the instant invention claimed in claim 19.

Regarding claim 20, neither Myers et al. nor McClure et al. disclosed "at least one cross member providing support for the at least one netwrap material guide from below." Hence, it would not have been obvious to one of ordinary skill in the art to have modified the invention of Myers et al. with the disclosure of McClure et al. to obtain the instant invention claimed in claim 20.

Note that, especially because the Office Action did not provide reasons for obviousness for claims 19 and 20, no mention of teaching, suggestion, or motivation for proof of obviousness was given. As stated above, such is required to establish obviousness. Without any teaching, suggestion, or motivation, it clearly would not have been obvious to one of ordinary skill in the art at the time that this invention was made to have modified the invention of Myers et al. with the disclosure of McClure et al. to obtain the instant invention claimed in claims 18–20.

Accordingly, because all claims 1–13 and 18-23 are believed to be clearly allowable, a notice to that effect is earnestly solicited.

Respectfully submitted,

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